



## Senate

General Assembly

**File No. 542**

February Session, 2008

Substitute Senate Bill No. 692

*Senate, April 9, 2008*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING THE DNA TESTING OF CONVICTED PERSONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-102g of the 2008 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2008*):

4 (a) Any person who has been convicted of a criminal offense against  
5 a victim who is a minor, a nonviolent sexual offense or a sexually  
6 violent offense, as those terms are defined in section 54-250, or a  
7 felony, and has been sentenced on that conviction to the custody of the  
8 Commissioner of Correction shall, prior to release from custody and at  
9 such time as the commissioner may specify, submit to the taking of a  
10 blood or other biological sample for DNA (deoxyribonucleic acid)  
11 analysis to determine identification characteristics specific to the  
12 person. If any person required to submit to the taking of a blood or  
13 other biological sample pursuant to this subsection refuses to do so,  
14 the Commissioner of Correction or the commissioner's designee shall

15 notify the Department of Public Safety within thirty days of such  
16 refusal for the initiation of criminal proceedings against such person.

17 (b) Any person who is convicted of a criminal offense against a  
18 victim who is a minor, a nonviolent sexual offense or a sexually violent  
19 offense, as those terms are defined in section 54-250, or a felony and is  
20 not sentenced to a term of confinement shall, as a condition of such  
21 sentence and at such time as the sentencing court may specify, submit  
22 to the taking of a blood or other biological sample for DNA  
23 (deoxyribonucleic acid) analysis to determine identification  
24 characteristics specific to the person.

25 (c) Any person who has been found not guilty by reason of mental  
26 disease or defect pursuant to section 53a-13 of a criminal offense  
27 against a victim who is a minor, a nonviolent sexual offense or a  
28 sexually violent offense, as those terms are defined in section 54-250, or  
29 a felony, and is in custody as a result of that finding, shall, prior to  
30 discharge from custody in accordance with subsection (e) of section  
31 17a-582 of the 2008 supplement to the general statutes, section 17a-588  
32 of the 2008 supplement to the general statutes or subsection (g) of  
33 section 17a-593 of the 2008 supplement to the general statutes and at  
34 such time as the Commissioner of Mental Health and Addiction  
35 Services or the Commissioner of Developmental Services with whom  
36 such person has been placed may specify, submit to the taking of a  
37 blood or other biological sample for DNA (deoxyribonucleic acid)  
38 analysis to determine identification characteristics specific to the  
39 person.

40 (d) Any person who has been convicted of a criminal offense against  
41 a victim who is a minor, a nonviolent sexual offense or a sexually  
42 violent offense, as those terms are defined in section 54-250, or a  
43 felony, and is serving a period of probation or parole, and who has not  
44 submitted to the taking of a blood or other biological sample pursuant  
45 to subsection (a), (b) or (c) of this section, shall, prior to discharge from  
46 the custody of the Court Support Services Division or the Department  
47 of Correction and at such time as said division or department may

48 specify, submit to the taking of a blood or other biological sample for  
49 DNA (deoxyribonucleic acid) analysis to determine identification  
50 characteristics specific to the person.

51 (e) Any person who has been convicted or found not guilty by  
52 reason of mental disease or defect in any other state or jurisdiction of a  
53 felony or of any crime, the essential elements of which are  
54 substantially the same as a criminal offense against a victim who is a  
55 minor, a nonviolent sexual offense or a sexually violent offense, as  
56 those terms are defined in section 54-250, and is in the custody of the  
57 Commissioner of Correction, is under the supervision of the Judicial  
58 Department or the Board of Pardons and Paroles or is under the  
59 jurisdiction of the Psychiatric Security Review Board, shall, prior to  
60 discharge from such custody, supervision or jurisdiction submit to the  
61 taking of a blood or other biological sample for DNA  
62 (deoxyribonucleic acid) analysis to determine identification  
63 characteristics specific to the person.

64 (f) Notwithstanding the provisions of subsections (a) to (d),  
65 inclusive, of this section, any person who is convicted or found not  
66 guilty by reason of mental disease or defect pursuant to section 53a-13,  
67 on or after the effective date of this section, of a criminal offense  
68 against a minor, a nonviolent sexual offense or a sexually violent  
69 offense, as those terms are defined in section 54-250, or a felony, shall,  
70 prior to the time scheduled for such person to be sentenced or  
71 committed for such offense, submit to the taking of a blood or other  
72 biological sample for DNA (deoxyribonucleic acid) analysis to  
73 determine identification characteristics specific to the person.

74 ~~[(f)]~~ (g) The analysis shall be performed by the Division of Scientific  
75 Services within the Department of Public Safety. The identification  
76 characteristics of the profile resulting from the DNA analysis shall be  
77 stored and maintained by the division in a DNA data bank and shall  
78 be made available only as provided in section 54-102j.

79 ~~[(g)]~~ (h) Any person who refuses to submit to the taking of a blood  
80 or other biological sample pursuant to this section shall be guilty of a

81 class A misdemeanor.

82 Sec. 2. Subsection (a) of section 54-102h of the 2008 supplement to  
83 the general statutes is repealed and the following is substituted in lieu  
84 thereof (*Effective October 1, 2008*):

85 (a) (1) The collection of a blood or other biological sample from  
86 persons required to submit to the taking of such sample pursuant to  
87 subsection (a) of section 54-102g of the 2008 supplement to the general  
88 statutes, as amended by this act, shall be the responsibility of the  
89 Department of Correction and shall be taken at a time and place  
90 specified by the Department of Correction.

91 (2) The collection of a blood or other biological sample from persons  
92 required to submit to the taking of such sample pursuant to subsection  
93 (b) of section 54-102g of the 2008 supplement to the general statutes, as  
94 amended by this act, shall be the responsibility of the Department of  
95 Public Safety and shall be taken at a time and place specified by the  
96 sentencing court.

97 (3) The collection of a blood or other biological sample from persons  
98 required to submit to the taking of such sample pursuant to subsection  
99 (c) of section 54-102g of the 2008 supplement to the general statutes, as  
100 amended by this act, shall be the responsibility of the Commissioner of  
101 Mental Health and Addiction Services or the Commissioner of  
102 Developmental Services, as the case may be, and shall be taken at a  
103 time and place specified by said commissioner.

104 (4) The collection of a blood or other biological sample from persons  
105 required to submit to the taking of such sample pursuant to subsection  
106 (d) of section 54-102g of the 2008 supplement to the general statutes, as  
107 amended by this act, shall be the responsibility of the Judicial  
108 Department if such person is serving a period of probation and of the  
109 Department of Correction if such person is serving a period of parole  
110 and shall be taken at a time and place specified by the Court Support  
111 Services Division or the Department of Correction, as the case may be.

112 (5) The collection of a blood or other biological sample from persons  
 113 required to submit to the taking of such sample pursuant to subsection  
 114 (e) of section 54-102g of the 2008 supplement to the general statutes, as  
 115 amended by this act, shall be the responsibility of the agency in whose  
 116 custody or under whose supervision such person has been placed, and  
 117 shall be taken at a time and place specified by such agency.

118 (6) The collection of a blood or other biological sample from persons  
 119 required to submit to the taking of such sample pursuant to subsection  
 120 (f) of section 54-102g, as amended by this act, shall be the responsibility  
 121 of the Judicial Department and shall be taken at a time and place  
 122 specified by the Court Support Services Division prior to the time  
 123 scheduled for the sentencing or commitment of such persons.

124 Sec. 3. Section 54-102l of the general statutes is repealed and the  
 125 following is substituted in lieu thereof (*Effective October 1, 2008*):

126 A [person whose] DNA profile that has been included in the data  
 127 bank pursuant to sections 54-102g to 54-102k, inclusive, [may request  
 128 expungement on the grounds that] as amended by this act, shall be  
 129 expunged in the event that the criminal conviction or finding of not  
 130 guilty by reason of mental disease or defect on which the authority for  
 131 including [his] the DNA profile was based has been reversed and the  
 132 case dismissed. The State Police Forensic Science Laboratory shall  
 133 purge all records and identifiable information in the data bank  
 134 pertaining to the person and destroy all samples from the person upon  
 135 receipt of [(1) a written request for expungement pursuant to this  
 136 section and (2)] a certified copy of the court order reversing and  
 137 dismissing the conviction or the finding of not guilty by reason of  
 138 mental disease or defect.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	54-102g
Sec. 2	<i>October 1, 2008</i>	54-102h(a)
Sec. 3	<i>October 1, 2008</i>	54-102l

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Dept.	GF - Cost	Approximately 96,375	Approximately 128,500
Correction, Dept.	GF - Savings	Potential	Potential
Public Safety, Dept.	GF - Cost	34,900	46,500

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill shifts responsibility for taking DNA samples from offenders who, charged with specific crimes, are convicted or found not guilty by reason of mental disease or defect on or after October 1, 2008. It makes the Court Support Services Division (CSSD) of the Judicial Department responsible for taking these samples rather than the Department of Correction (DOC). This shift would result in a cost to the state because the CSSD pays a contractual price of \$128.50 for each sample taken, whereas DOC staff members take DNA samples from inmates within the normal course of their duties and at no additional expense.<sup>1</sup> The annual cost of this shift is estimated to be \$128,500.

The bill accelerates the process for obtaining DNA profiles of sex offenders and felons, as well as people acquitted of those crimes because of a mental disease or defect, convicted on or after October 1, 2008. It is estimated that this will increase the number of DNA samples analyzed by the Division of Scientific Services within the Department of Public Safety (DPS) by 750 in FY 09 and 1,000 in FY 10. This would result in a cost of \$34,900 (\$30,000 for DNA processing and

<sup>1</sup> The DOC presently has custody of 5,100 incarcerated felons who have yet to be tested; the DOC's obligation to take samples from these offenders remains under the bill.

\$4,900 for overtime costs) in FY 09 and \$46,500 (\$40,000 for DNA processing and \$6,500 for overtime costs) in FY 10.

***The Out Years***

The fiscal impact identified above for the Department of Public Safety would be mitigated in the out years by a gradual reduction in the DNA caseload as the backlog of new samples required to be tested becomes reduced.



**OLR Bill Analysis****sSB 692*****AN ACT CONCERNING THE DNA TESTING OF CONVICTED PERSONS.*****SUMMARY:**

This bill accelerates the process for obtaining DNA profiles of convicted sex offenders and felons and people acquitted of those crimes because of a mental disease or defect. Currently, in most cases they must provide DNA samples after sentencing but before they are released from the departments of Correction or Mental Health and Addiction Services custody. If they are not ordered into custody, the court's sentence must specify when and how they must submit their DNA sample.

Under the bill, people convicted or acquitted due to mental disease or defect on or after October 1, 2008 must provide the sample before the sentencing or commitment hearing at a time and place the Judicial Branch's Court Support Services Division specifies. The Judicial Branch is responsible for collecting the sample.

The bill also streamlines the process for expunging DNA profiles from the Department of Public Safety's data bank. Currently, the person seeking to have his or her profile expunged must submit both a written request and a certified copy of the court order reversing the conviction and dismissing the case. Under the bill, the State Police Forensic Laboratory must expunge the profile (i.e., purge all records and identifiable information and destroy all DNA samples) upon receiving the certified copy of the court order. The bill extends expungement rights to people who submitted DNA samples after being found not guilty by reason of mental disease or defect when a court subsequently reverses that finding and dismisses the case.

EFFECTIVE DATE: October 1, 2008

**BACKGROUND*****DNA Data Bank***

The primary purpose of the DNA data bank is to compare DNA profiles generated from evidence recovered from crime scenes to the DNA profiles generated from convicted offenders. The data bank consists of two main indices: the convicted offender profiles and the forensic unknown (crime scene) profiles. There are additional indices to aid in the identification of missing persons and unidentified human remains.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 0 (03/24/2008)